

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X 19 Civ.11235 (JGK)  
MICHAEL MENZIES,

Plaintiff, ANSWER

-against-

LONG ISLAND RAIL ROAD COMPANY,

Defendant.

-----X

Defendant, LONG ISLAND RAIL ROAD COMPANY, by its attorneys,  
**KREZ & FLORES, LLP**, as and for an Answer to the complaint, alleges  
upon information and belief:

**THE PARTIES**

1: Denies knowledge or information sufficient to form a belief  
as to the truth or falsity of the allegations set forth in  
paragraphs "1" and "3" of the complaint.

2: Denies each and every allegation set forth in paragraphs  
"2", "4", and "5" of the complaint.

**JURISDICTION AND VENUE**

3: Denies each and every allegation set forth in paragraph  
"6" of the complaint.

4: Admits each and every allegation set forth in paragraph  
"7" of the complaint.

5: Admits the allegation in paragraph "8" that Defendant  
Long Island Rail Road Company does business in this District, but  
denies the remaining allegations concerning events or omissions  
giving rise to any claims.

**FACTS**

6: Denies each and every allegation set forth in paragraphs "9", "10", "11" and "12" of the complaint.

**COUNT I**

7: Defendant repeats and re-alleges each and every denial and admission set forth in answer to paragraphs "1" through "6"

8: Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "14".

9: Denies each and every allegation set forth in paragraphs "15", "16" and "17" of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

10: Any injuries alleged by the plaintiff were caused in whole or in part by the negligent conduct of the plaintiff, not by any negligence of the defendant.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

11: Any injuries suffered by plaintiff were caused, in part, by his own negligence, and any recovery by plaintiff must be diminished in proportion to that part of his injuries attributable to his own negligence.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

12: Any injuries suffered by plaintiff were not caused by a negligent act or omission of the answering defendant or any individual acting under its direction or control.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

13: Plaintiff failed to mitigate or otherwise act to lessen or reduce the damages alleged in the complaint.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

14: Plaintiff has failed to state a cause of action upon which relief may be granted.

**WHEREFORE**, defendant **LONG ISLAND RAIL ROAD COMPANY**, demands judgment dismissing the complaint of the plaintiff, together with costs and disbursements.

**DATED:** New York, New York  
February 6, 2020

Yours, etc.,

**KREZ & FLORES, LLP**

*William J. Blumenschein*  
**WILLIAM J. BLUMENSCHINEIN (WJB9232)**  
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**TO: FLYNN & WIETZKE, P.C.**  
Attorneys for Plaintiff  
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(516) 877-1234

VERIFICATION

STATE OF NEW YORK      )  
                             : ss.:  
COUNTY OF NEW YORK     )

**WILLIAM J. BLUMENSCHEN**, an attorney admitted to practice in the Courts of the State of New York, affirms the truth of the following statements under the penalties of perjury: that I am a member of the firm of KREZ & FLORES, LLP, attorneys for defendant **LONG ISLAND RAIL ROAD COMPANY**; that I have read the foregoing ANSWER and know the contents thereof; that I know the same to be true, except as to matters alleged on information and belief, and as to those matters I believe them to be true; that the grounds and source of my information and belief are derived from the files and records maintained in the normal course of business of the said defendant and from investigations in contemplation of litigation made by the said defendant or the said defendant's attorneys; that I am acquainted with the facts herein and I make this verification in accordance with CPLR 3020(d)(2).

Dated:      New York, New York  
                February 6, 2020

  
William J. Blumenschein  
**WILLIAM J. BLUMENSCHEN**